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February 11, 2005

Chairman Paul Hudson  
Commissioner Julie Parsley  
Commissioner Barry Smitherman  
Public Utility Commission of Texas  
1701 N. Congress Avenue  
Austin, Texas 78701

Re: Docket No. 28821 – SBC Texas Accessible Letters regarding FCC's  
Triennial Review Remand Order

Dear Chairman Hudson and Commissioners Parsley and Smitherman:

Today, SBC is sending notices to the CLEC community in all of the 13 states where SBC provides local wholesale services via a series of accessible letters, as an advisory about the effect of the FCC's Triennial Review Remand Order (TRRO) released on February 4, 2005.

The letters describe generally four things:

1. An interim commercial offer for continued availability of a replacement for UNE-P known as SBC's Interim "UNE-P Replacement" Commercial Offering which is designed to be a bridge between the effective date of the TRO Remand Order, i.e., March 11, 2005, and when SBC and the CLECs are able to reach agreement on a long-term commercial agreement;
2. SBC's intention of implementing the "no-new-adds" UNE switching relief provided by the TRRO, by recognizing that CLECs may not place, and SBC will no longer provision New, Migration or Move Local Service Requests (LSRs) for Mass Market Unbundled Local Switching, UNE-P,<sup>1</sup> or affected high-capacity loop and transport elements after March 11, 2005;
3. The applicability of a \$1 dollar increase to Mass Market ULS/UNE-P pricing and a 15% increase on rates applicable to affected high-capacity loop and transport elements, effective March 11, 2005; and
4. The implementation of the 12-month and 18-month transition plans set forth in the TRRO for the affected elements.

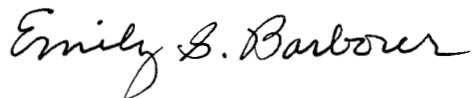
<sup>1</sup> "Mass Market" means less than a DS1 level or 1-13 lines (see TRRO, fn. 625).

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Commissioner Barry Smitherman  
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In the context of Docket No. 28821, SBC Texas recognizes that the Commission intends to render a decision on February 24, 2005 related to the impact of this Commission's prior decision in Docket No. 24542. SBC is pursuing the implementation described above on a national basis, and is sending out these accessible letters in Texas and other states for purposes of implementing the *TRRO* as contemplated by the FCC.

Pursuant to the standing order in this docket, we are enclosing the relevant accessible letters.<sup>2</sup> We hope that this transmittal letter puts the accessible letters in context. Thank you for your attention to this matter.

Sincerely,

A handwritten signature in cursive script that reads "Emily S. Barbour".

Emily S. Barbour  
Senior Counsel

cc: Honorable Diane Parker  
Honorable Randy Klaus  
Honorable Andrew Kang  
All Counsel of Record

Attachments

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<sup>2</sup> In the prehearing conference on February 9, 2004, Judge Cooper requested that SBC Texas file in this docket accessible letters that relate to this proceeding.



## Accessible

**Date:** February 11, 2005

**Number:** CLECALL05-016

**Effective Date:** N/A

**Category:** Interim "UNE-P Replacement"  
Commercial Offering

**Subject:** (Business Processes) SBC's<sup>1</sup> Interim "UNE-P Replacement" Commercial Offering

**Related Letters:** [CLECALL05-017 and  
CLECALL05-018 for Mass Market  
ULS/UNE-P]

**Attachment:** No

**States Impacted:** 13-States

**Issuing SBC ILECS:** SBC Indiana, SBC Ohio, SBC Michigan, SBC Wisconsin, SBC California, SBC Nevada, SBC Arkansas, SBC Illinois, SBC Kansas, SBC Missouri, SBC Oklahoma, SBC Texas and SBC Connecticut

**Response Deadline:** N/A

**Contact:** Account Manager

**Conference Call/Meeting:** N/A

To: SBC Local Wholesale Customers

SBC would like to announce a commercial offering, SBC's Interim "UNE-P Replacement" Commercial Offering, designed for current UNE-P CLECs who wish to continue ordering new mass market<sup>2</sup> local switch port with loop combinations while negotiating a long term commercial arrangement.

SBC's Interim "UNE-P Replacement" Commercial Offering is designed to be a bridge between the effective date of the TRO Remand Order, i.e., March 11, 2005, and when SBC and the CLEC are able to reach agreement on a long-term commercial agreement.

Following is a summary of SBC's Interim "UNE-P Replacement" Commercial Offering:

- The arrangement will be confirmed in a short-term agreement not to exceed a term of 6 months, i.e., September 11, 2005, from the effective date of the TRO Remand Order.
- Under the Interim "UNE-P Replacement" Commercial Offering the CLEC will have the ability to maintain its embedded base of Mass Market Unbundled Local Switching/UNE-P lines while continuing to acquire and provision new mass market local switch port with loop combinations for the term of the Interim "UNE-P Replacement" Commercial Agreement.
- The 6-month period will allow sufficient time for negotiations of a long-term Commercial Agreement.
- The monthly recurring price for all mass market local switch port/loop combinations under this Agreement (i.e., the CLEC embedded base as well as new installations) is

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<sup>1</sup> References to "SBC" in this Accessible Letter encompass, as applicable, the Issuing SBC ILECs identified at the beginning of this letter.

<sup>2</sup> "Mass market" means less than a DS1 level or 1-23 lines.



## Accessible

\$23.50 plus usage until June 11, 2005, and \$25 plus usage for the duration of the Agreement.

- This Commercial Offering is not subject to performance measurements or related payments.

The foregoing is just a summary; details are published on CLEC-Online for your review and can be accessed via <https://clec.sbc.com/clec/cars/> then click on Public Documents.

While you can enter into this Agreement any time between now and September 11, 2005, its term will expire no later than September 11, 2005. In order to avoid interruptions in new order processing effective March 11, 2005, as described in CLECALL05-017, the Agreement must be executed by close of business on March 4, 2005.

Should you have any questions regarding the Interim "UNE-P Replacement" Commercial Offering, please contact your Account Manager.



Accessible

**Date:** February 11, 2005

**Number:** CLECALL05-017

**Effective Date:** N/A

**Category:** Mass Market ULS/UNE-P

**Subject:** (Business Processes) SBC's<sup>1</sup> Implementation of the FCC TRO Remand Order -- Mass Market ULS/UNE-P/Order Rejection

**Related Letters:** [CLECALL05-019 and CLECALL05-020 ALs for Loop Transport; and CLECALL05-016 SBC Interim "UNE-P Replacement" Commercial Offering; and CLECALL05-018 Letter Re: ULS/UNE-P Price Increase/Transition Period]

**Attachment:** No

**States Impacted:** 13-States

**Issuing SBC ILECS:** SBC Illinois, SBC Indiana, SBC Ohio, SBC Michigan, SBC Wisconsin, SBC California, SBC Nevada, SBC Arkansas, SBC Kansas, SBC Missouri, SBC Oklahoma, SBC Texas and SBC Connecticut

**Response Deadline:** N/A

**Contact:** Account Manager

**Conference Call/Meeting:** N/A

**To:** SBC Local Wholesale Customers

On February 4, 2005, the FCC issued its "TRO Remand Order", concerning the provision of unbundled network elements. As set forth in the TRO Remand Order, specifically in Rule 51.319(d)(2), as of March 11, 2005, CLECs "may not obtain," and SBC and other ILECs are not required to provide access to local circuit switching on an unbundled basis to requesting telecommunications carriers for the purpose of serving end-user customers using DS0 capacity loops. Therefore, CLECs may not place, and SBC will no longer provision New, Migration or Move Local Service Requests (LSRs) for Mass Market Unbundled Local Switching and the UNE-P.<sup>2</sup>

Accordingly, as of the effective date of the TRO Remand Order, i.e., March 11, 2005, CLECs are no longer authorized to place, nor will SBC accept, New (including new lines being added to existing Mass Market Unbundled Local Switching/UNE-P accounts), Migration or Move LSRs for Mass Market Unbundled Local Switching/UNE-P. Any New, Migration or Move LSRs placed for Mass Market Unbundled Local Switching/UNE-P on or after March 11, 2005 will be rejected. The effect of the TRO Remand Order on New, Migration or Move LSRs for Mass Market Unbundled Local

<sup>1</sup> References to "SBC" in this Accessible Letter encompass, as applicable, the Issuing SBC ILECs identified at the beginning of this letter.

<sup>2</sup> "Mass Market" means less than a DS1 level or 1-23 lines (*see* TRO Remand Order, fn. 625).



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Switching/UNE-P is operative notwithstanding interconnection agreements or applicable tariffs.

SBC stands ready to negotiate a commercial substitute for unbundled switching in combination with DS0 loops (either a short term arrangement as outlined in CLECALL05-016, or a longer term contract). Of course, other options offered by SBC remain available, such as Resale and UNE-L.

Should you have any questions regarding this implementation notice or a commercial arrangement, please contact your Account Manager.



Accessible

**Date:** February 11, 2005

**Number:** CLECALL05-018

**Effective Date:** N/A

**Category:** Mass Market Unbundled Local  
Switching/UNE-P/Transition Period  
And Transition Pricing

**Subject:** (Business Processes) SBC's<sup>1</sup> Implementation of the FCC TRO Remand Order for Mass  
Market Unbundled Local Switching/UNE-P – Transition Plan

**Related Letters:** [CLECALL05-019 and  
CLECALL05-020 ALs for Loop  
Transport; and CLECALL05-016  
SBC Interim "UNE-P  
Replacement" Commercial  
Offering and CLECALL05-017 on  
Order Rejection ULS-UNE-P]

**Attachment:** Yes

**States Impacted:** 13-States

**Issuing SBC ILECS:** SBC Illinois, SBC Indiana, SBC Ohio, SBC Michigan, SBC Wisconsin, SBC  
California, SBC Nevada, SBC Arkansas, SBC Kansas, SBC Missouri, SBC  
Oklahoma, SBC Texas and SBC Connecticut

**Response Deadline:** March 10, 2005

**Contact:** Account Manager

**Conference Call/Meeting:** N/A

To: SBC Local Wholesale Customers

This letter is to share with you SBC's plans to implement the FCC's February 4, 2005 TRO Remand Order, as it pertains to Mass Market Unbundled Local Switching/UNE-P.<sup>2</sup> These plans are in accordance with the TRO Remand Order and are described below with respect to the following two areas as outlined in the Order: 1) the 12-Month Transition Period for the Embedded Base and 2) Transition Pricing for the Embedded Base during the 12-month transition period.

As explained in CLECALL05-017, as of the effective date of the TRO Remand Order, i.e., March 11, 2005, you are no longer authorized to send, and SBC will no longer accept, New (including new lines being added to existing Mass Market Unbundled Local Switching/UNE-P accounts), Migration or Move LSRs for Mass Market Unbundled Local Switching/UNE-P. Any New, Migration or Move LSRs placed for Mass Market Unbundled Local Switching/UNE-P on or after the effective date of the TRO Remand Order will be rejected.

Your embedded base of Mass Market Unbundled Local Switching and UNE-P arrangements will be treated in the following manner, as per the requirements of the TRO Remand Order. Paragraph 233 of the Order requires good faith negotiations regarding implementation of the rule changes and implementation of the conclusions adopted in the

<sup>1</sup> References to "SBC" in this Accessible Letter encompass, as applicable, the Issuing SBC ILECs identified at the beginning of this letter.

<sup>2</sup> "Mass Market" means less than a DS1 level or 1-23 lines (see TRO Remand Order, fn. 625).



Order. To facilitate both parties meeting this obligation, attached is a sample amendment to your Interconnection Agreement. A signature-ready Amendment, along with instructions, will be available on CLEC-Online not later than February 21, 2005, for you to download, print, complete and return to SBC. Please sign and return the Amendment to SBC by March 10, 2005, to ensure prompt implementation of the TRO Remand Order requirements.

**Transition Period for the Mass Market Unbundled Local Switching/UNE-P Embedded Base.**

As established by the TRO Remand Order, the transition period for the Mass Market Unbundled Local Switching/UNE-P embedded base is 12 months. This 12-month transition period will begin on March 11, 2005 and end on March 11, 2006. During this 12-month transition period, your Company will be responsible for the transition of Mass Market Unbundled Local Switching/UNE-P lines to an alternative serving arrangement, e.g., Resale, Standalone Loops. SBC is prepared to accept and process transitional orders now.

SBC stands ready to negotiate Commercial Agreement alternatives with you during this Transition Period. Such alternatives are available on a short-term basis as announced in CLECALL05-016, as well as on a long-term basis. To the extent that you have not taken the necessary steps to transition your embedded base Mass Market Unbundled Local Switching/UNE-P lines within the mandated 12-month period, SBC will re-price such arrangements to a market-based rate.

**Transition Pricing for the Mass Market Unbundled Local Switching/UNE-P Embedded Base.**

During the Mass Market Unbundled Local Switching/UNE-P Transition Period, the Mass Market Unbundled Local Switching/UNE-P embedded base rates will be modified beginning on the effective date of the TRO Remand Order, i.e., March 11, 2005. While the FCC's Order discusses the need to amend ICAs prior to the end of the transition period, it clearly sets forth provisions for the rate modifications to be retroactive to March 11, 2005. Therefore, to ensure accurate billing based on current lines in service each month, the most effective mechanism to facilitate the rate modification is to apply it beginning March 11, 2005, and eliminate the need for manual true-ups at the end of the transition period. The rates will be modified to a rate equal to the higher of (1) the rate your company paid for such Mass Market Unbundled Local Switching/UNE-P as of June 15, 2004 *plus \$1.00* or (2) the rate the state commission has established or establishes,<sup>3</sup> if any, between June 16, 2004 and March 11, 2005 for Mass Market Unbundled Local Switching/UNE-P, *plus \$1.00*.

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<sup>3</sup> Assuming such rate represents an increase, pursuant to the FCC's Interim Order (Order and Notice of Proposed Rulemaking, *Unbundled Access to Network Elements, Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, 19 FCC Rcd 16783 (2004)).





Accessible

Should you have any questions regarding this implementation notice, please contact your Account Manager.

**POST-TRO REMAND (ULS Rate Increase and Embedded Base Transition) AMENDMENT TO  
INTERCONNECTION AGREEMENT**

**BETWEEN  
SBC ILEC(s)**

**AND**

**\_\_\_\_\_ (“CLEC”)**

This is a Post-TRO Remand (ULS Rate Increase and Embedded Base Transition) Amendment (the “Amendment”) to the Interconnection Agreement by and between one or more of the SBC Communications Inc. owned ILECs: Illinois Bell Telephone Company d/b/a SBC Illinois, Indiana Bell Telephone Company Incorporated d/b/a SBC Indiana, Michigan Bell Telephone Company d/b/a SBC Michigan, Nevada Bell Telephone Company d/b/a SBC Nevada, The Ohio Bell Telephone Company d/b/a SBC Ohio, Pacific Bell Telephone Company d/b/a SBC California, The Southern New England Telephone Company d/b/a SBC Connecticut, Southwestern Bell Telephone, L.P. d/b/a SBC Arkansas, SBC Kansas, SBC Missouri, SBC Oklahoma and SBC Texas, and Wisconsin Bell, Inc. d/b/a SBC Wisconsin, (“SBC”) and CLEC (collectively referred to as “the Parties”) (“Agreement”) previously entered into by and between the Parties pursuant to Sections 251 and 252 of the Telecommunications Act of 1996 (the “Act”).

WHEREAS, the FCC issued its Order on Remand, including related unbundling rules,<sup>1</sup> on February 4, 2005 (“TRO Remand Order”), holding that an incumbent LEC is not required to provide access to local circuit switching on an unbundled basis to requesting telecommunications carriers (CLECs) for the purpose of serving end-user customers using DSO capacity loops (“mass market unbundled local circuit switching” or “Mass Market ULS”);

NOW, THEREFORE, the Parties wish to amend the Agreement, pursuant to Section 252(a)(1) of the Act and the terms of their Agreement, to be consistent with at least the mass market unbundled local circuit switching findings by the FCC in its TRO Remand Order, and in consideration of the foregoing, and the promises and mutual agreements set forth herein, the Parties agree to amend the Agreement as follows:

1. Notwithstanding anything in the Agreement, pursuant to Rule 51.319(d) as set forth in the TRO Remand Order, effective March 11, 2005, CLEC is not permitted to obtain new Mass Market ULS, either alone or in combination (as in with “UNE-P”). Accordingly, pursuant to Rule 51.319(d)(2)(iii), although SBC shall continue to provide access to Mass Market ULS or Mass Market UNE-P to CLEC for CLEC to serve its embedded base of end-user customers, the price for Mass Market UNE-P shall be the higher of (A) the rate at which CLEC obtained such Mass Market UNE-P on June 15, 2004 plus one dollar, or (B) the rate the applicable state commission established(s), if any, between June 16, 2004, and March 11, 2005, for such Mass Market UNE-P, plus one dollar. For purposes of this Paragraph, “Mass Market” shall mean 1 – 23 lines, inclusive (i.e. less than a DS1 or “Enterprise” level.) CLEC shall be fully liable to SBC to pay such pricing under the Agreement, including applicable terms and conditions setting forth penalties for failure to comply with payment terms, notwithstanding anything to the contrary in the Agreement.
2. CLEC will complete the transition of embedded base Mass Market ULS and Mass Market UNE-P to an alternative arrangement by the end of the transition period defined in the TRO Remand Order (i.e. by March 11, 2006).
3. Paragraphs 1 and 2, above, apply and are operative regardless of whether CLEC is requesting Mass Market ULS or Mass Market UNE-P under the Agreement or under a state tariff, if applicable, and regardless of whether the state tariff is referenced in the Agreement or not.
4. In entering into this Amendment, neither Party is waiving, and each Party hereby expressly reserves, any of the rights, remedies or arguments it may have at law or under the intervening law or regulatory change provisions in the underlying Agreement (including intervening law rights asserted by either Party via written notice predating

<sup>1</sup> Order on Remand, *Unbundled Access to Network Elements; Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, WC Docket No. 04-313; CC Docket No. 01-338, ¶ 5 (FCC released Feb. 4, 2005).

this Amendment) with respect to any orders, decisions, legislation or proceedings and any remands thereof, including, without limitation, the following actions, which the Parties have not yet fully incorporated into this Agreement or which may be the subject of further review: *Verizon v. FCC, et. al*, 535 U.S. 467 (2002); *USTA, et. al v. FCC*, 290 F.3d 415 (D.C. Cir. 2002) ("*USTA I*") and following remand and appeal, *USTA v. FCC*, 359 F.3d 554 (D.C. Cir. 2004) ("*USTA II*"); the FCC's 2003 Triennial Review Order and 2005 Triennial Review Remand Order; and the FCC's Order on Remand and Report and Order in CC Dockets No. 96-98 and 99-68, 16 FCC Rcd 9151 (2001), (rel. April 27, 2001), which was remanded in *WorldCom, Inc. v. FCC*, 288 F.3d 429 (D.C. Cir. 2002).

5. In all states other than Ohio, the Parties acknowledge and agree that this Amendment shall be filed with, and is subject to approval by the applicable state commission and shall become effective ten (10) days following the date upon which such state commission approves this amendment under Section 252(e) of the Act or, absent such state commission approval, the date this amendment is deemed approved by operation of law. In the state of Ohio only, the Parties acknowledge and agree that this Amendment shall be filed with, and is subject to approval by the Public Utilities Commission of Ohio ("PUCO"). Based upon PUCO practice, this Amendment shall be effective upon filing and will be deemed approved by operation of law on the 31<sup>st</sup> day after filing.

IN WITNESS WHEREOF, this Amendment to the Agreement was exchanged in triplicate on this \_\_\_\_\_ day of \_\_\_\_\_, 2005, by the Parties, signing by and through their duly authorized representatives

CLEC \_\_\_\_\_

SBC Operations, Inc., authorized agent for the following SBC ILECs:

\_\_\_\_\_

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_  
(Print or Type)

Name: \_\_\_\_\_  
(Print or Type)

Title: \_\_\_\_\_  
(Print or Type)

Title: *For*/ Senior Vice President -  
Industry Markets and Diversified Businesses

Date: \_\_\_\_\_

Date: \_\_\_\_\_

FACILITIES-BASED OCN # \_\_\_\_\_

ACNA \_\_\_\_\_



Accessible

**Date:** February 11, 2005

**Number:** CLECALL05-019

**Effective Date:** N/A

**Category:** Loop-Transport

**Subject:** (Business Processes) SBC's<sup>1</sup> Implementation of the FCC TRO Remand Order for Unbundled High-Capacity Loops and Unbundled Dedicated Transport – Order Rejection

**Related Letters:** [CLEC ALL05-020  
Loop/Transport Price  
Increase/Transition Period;  
CLECALL05-016 SBC Interim  
"UNE-P Replacement"  
Commercial Offering;  
CLECALL05-018 Letter Re:  
ULS/UNE-P Price  
Increase/Transition Period; and  
CLEC ALL05-017 Order Rejection  
ULS-UNE-P]

**Attachment:** Yes (4)

**States Impacted:** 13-States

**Issuing SBC ILECS:** SBC Indiana, SBC Ohio, SBC Michigan, SBC Wisconsin, SBC California, SBC Nevada, SBC Arkansas, SBC Illinois, SBC Kansas, SBC Missouri, SBC Oklahoma, SBC Texas and SBC Connecticut

**Response Deadline:** N/A

**Contact:** Account Manager

**Conference Call/Meeting:** N/A

**To:** SBC's Local Wholesale Customers

On February 4, 2005, the FCC issued its "TRO Remand Order", concerning the provision of unbundled network elements. As set forth in the TRO Remand Order, specifically in Rule 51.319(a)(6), as of March 11, 2005, CLECs "may not obtain," and SBC and other ILECs are not required to provide access to Dark Fiber Loops on an unbundled basis to requesting telecommunications carriers. The TRO Remand Order also finds, specifically in Rules 51.319(a)(4), (a)(5) and 51.319(e), that, as of March 11, 2005, CLECs "may not obtain," and SBC and other ILECs are not required to provide access to DS1/DS3 Loops or Transport or Dark Fiber Transport on an unbundled basis to requesting telecommunications carriers under certain circumstances. Therefore, as of March 11, 2005, in accordance with the TRO Remand Order, CLECs may not place, and SBC will no longer provision New, Migration or Move Local Service Requests (LSRs) for affected elements.

There are different impairment findings in the TRO Remand Order for each category of elements addressed by this Accessible Letter. To address the differences and to ensure clarity, SBC has included separate attachments for DS1 and DS3 Unbundled High

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<sup>1</sup> References to "SBC" in this Accessible Letter encompass, as applicable, the Issuing SBC ILECs identified at the beginning of this letter.



## Accessible

Capacity Loops, DS1 and DS3 Unbundled Dedicated Transport (UDT), Unbundled Dark Fiber Loops and Dark Fiber Unbundled Dedicated Transport. Please refer to the appropriate attachment to determine how orders for each category of elements will be treated in light of the TRO Remand Order.

The effect of the TRO Remand Order on New, Migration or Move LSRs for these affected elements is operative notwithstanding interconnection agreements or applicable tariffs.

Should you have any questions regarding this implementation notice, please contact your Account Manager.



Accessible

CLECALL05-019

**LOOPS ATTACHMENT: Implementation Plan for DS1 and DS3 High-Capacity  
Loops – Order Rejection.**

**New Local Service Requests (LSRs).**

As of the effective date of the TRO Remand Order, i.e., March 11, 2005, you are no longer authorized to place, nor will SBC accept New, Migration or Move LSRs for DS1 or DS3 High-Capacity Loops in excess of the caps established by Rule 51.319(a)(4) and 51.319(a)(5) or in service areas served by Wire Centers meeting the criteria set forth by the FCC in its TRO Remand Order, Rules 51.319(a)(4) and 51.319(a)(5) ("Affected DS1 and DS3 High-Capacity Loops"). Any New, Migration or Move LSRs placed for Affected DS1 or DS3 High-Capacity Loops on or after March 11, 2005 will be rejected.



Accessible

CLECALL05-019

**TRANSPORT ATTACHMENT: Implementation Plan for DS1 and DS3 Dedicated Transport – Order Rejection.**

**New Local Service Requests (LSRs).**

As of the effective date of the TRO Remand Order, i.e., March 11, 2005, you are no longer authorized to place, nor will SBC accept New, Migration or Move LSRs for DS1 or DS3 Dedicated Transport in excess of the caps established by Rule 51.319(e)(2)(ii) and Rule 51.319(e)(2)(iii) or on routes between Wire Centers meeting the criteria set forth by the FCC in its TRO Remand Order, Rule 51.319(e)(2)(ii) and Rule 51.319(e)(2)(iii) ("Affected DS1 or DS3 Dedicated Transport"). Any New, Migration or Move LSRs placed for Affected DS1 or DS3 Dedicated Transport on or after March 11, 2005 will be rejected.





Accessible

CLECALL05-019

**DARK FIBER LOOPS ATTACHMENT: Implementation Plan for Dark Fiber  
Loops– Order Rejection.**

**New Local Service Requests (LSRs).**

As of the effective date of the TRO Remand Order, i.e., March 11, 2005, pursuant to Rule 51.319(a)(6), you are no longer authorized to place, nor will SBC accept New, Migration or Move LSRs for Dark Fiber Loops. Any New, Migration or Move LSRs placed for Dark Fiber Loops on or after March 11, 2005 will be rejected.



Accessible

CLECALL05-019

**DARK FIBER TRANSPORT ATTACHMENT: Implementation Plan for Dark Fiber Dedicated Transport– Order Rejection.**

**New Local Service Requests (LSRs).**

As of the effective date of the TRO Remand Order, i.e., March 11, 2005, pursuant to Rule 51.319(e)(iv), you are no longer authorized to place, nor will SBC accept New, Migration or Move LSRs for Dark Fiber Dedicated Transport in service areas between Wire Centers meeting the criteria set forth by the FCC in its TRO Remand Order ("Affected Dark Fiber Dedicated Transport"). Any New, Migration or Move LSRs placed for Affected Dark Fiber Dedicated Transport served by these Wire Centers on or after March 11, 2005 will be rejected.



Accessible

**Date:** February 11, 2005

**Number:** CLECALL05-020

**Effective Date:** N/A

**Category:** Loop-Transport

**Subject:** (Business Processes) SBC's<sup>1</sup> Implementation of the FCC TRO Remand Order for Unbundled High-Capacity Loops and Unbundled Dedicated Transport - Transition Plan

**Related Letters:** [CLECALL05-019  
Loop/Transport Order Rejection;  
CLECALL05-016 SBC Interim  
"UNE-P Replacement"  
Commercial Offering;  
CLECALL05-018 Letter Re:  
ULS/UNE-P Price  
Increase/Transition Period; and  
CLEC ALL05-017 Order Rejection  
ULS-UNE-P]

**Attachment:** Yes (5)

**States Impacted:** 13-States

**Issuing SBC ILECS:** SBC Indiana, SBC Ohio, SBC Michigan, SBC Wisconsin, SBC California, SBC Nevada, SBC Arkansas, SBC Illinois, SBC Kansas, SBC Missouri, SBC Oklahoma, SBC Texas and SBC Connecticut

**Response Deadline:** March 10, 2005

**Contact:** Account Manager

**Conference Call/Meeting:** N/A

To: SBC's Local Wholesale Customers

This letter is to share with you SBC's plans to implement the FCC's February 4, 2005 TRO Remand Order, as it pertains to Unbundled Dedicated Transport and Unbundled High-Capacity Loops. These plans have been developed in accordance with the TRO Remand Order and are described in element-specific attachments to this Accessible Letter with respect to the following two areas as outlined in the TRO Remand Order: 1) the applicable Transition Period for the Embedded Base and 2) the applicable Transition Pricing for the Embedded Base. There are different transition periods defined and different impairment findings in the TRO Remand Order for each category of elements addressed by this Accessible Letter. To address the differences and to ensure clarity, SBC has set forth the different implementation plans in separate attachments for DS1 and DS3 High Capacity Loops, DS1 and DS3 Unbundled Dedicated Transport (UDT), Dark Fiber Loops and Dark Fiber Unbundled Dedicated Transport.

As explained in CLECALL05-019, as of the effective date of the TRO Remand Order, i.e., March 11, 2005, you are no longer authorized to send, and SBC will no longer accept, New, Migration or Move LSRs for unbundled high-capacity loops or transport, as is more specifically set forth in that Accessible Letter, and such orders will be rejected.

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<sup>1</sup> References to "SBC" in this Accessible Letter encompass, as applicable, the Issuing SBC ILECs identified at the beginning of this letter.



## Accessible

Your embedded base of the affected high-capacity loop and transport elements will be treated as is more specifically set forth in the attachments to this Letter, as per the requirements of the TRO Remand Order. Also attached is a sample amendment to your Interconnection Agreement. A signature-ready Amendment and instructions will be available on CLEC-Online not later than February 21, 2005, for you to download, print, complete and return to SBC. Please sign and return the Amendment to SBC by March 10, 2005. Paragraph 233 of the Order requires good faith negotiations regarding implementation of the rule changes and implementation of the conclusions adopted in the Order.

Should you have any questions regarding this implementation notice, please contact your Account Manager.



CLECALL05-020

**LOOPS ATTACHMENT: Implementation Plan for DS1 and DS3 High-Capacity Loops.**

**Transition Period for the Embedded Base.**

As of the effective date of the TRO Remand Order, i.e., March 11, 2005, SBC is no longer obligated to provide unbundled access to DS1 or DS3 High-Capacity Loops in excess of the caps established by Rule 51.319(a)(4) and 51.319(a)(5) or in service areas served by Wire Centers meeting the criteria set forth by the FCC in its TRO Remand Order, Rules 51.319(a)(4) and 51.319(a)(5) ("Affected Unbundled DS1 and DS3 High-Capacity Loops").

As established by the TRO Remand Order, the transition period for the Affected Unbundled DS1 and DS3 High-Capacity Loops is 12 months. This 12-month transition period will begin on March 11, 2005 and end on March 11, 2006. During this 12-month transition period, your Company will be responsible for the transition of Affected DS1 and DS3 High-Capacity Loops to an alternative service arrangement. To the extent that there are CLEC embedded base Affected DS1 or DS3 High-Capacity Loops in place at the conclusion of the 12-month transition period, SBC will convert them to a Special Access month-to-month service under the applicable access tariffs.

**Transition Pricing for the Embedded Base.**

The TRO Remand Order authorizes SBC to modify rates for embedded base Affected Unbundled DS1 and DS3 High-Capacity Loops to equal the higher of (1) the rate your company paid for such high-capacity loops as of June 15, 2004 *plus 15%* or (2) the rate the state commission has established or establishes, if any, between June 16, 2004 and March 11, 2005 for such high-capacity loops, *plus 15%*.



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CLECALL05-020

**TRANSPORT ATTACHMENT: Implementation Plan for DS1 and DS3  
Unbundled Dedicated Transport (UDT).**

**Transition Period for the Embedded Base.**

As of the effective date of the TRO Remand Order, i.e., March 11, 2005, SBC is no longer obligated to provide unbundled access to DS1 or DS3 UDT in excess of the caps established by Rule 51.319(e)(2)(ii) and 51.319(e)(2)(iii) or on routes between pairs of Wire Centers meeting the criteria set forth by the FCC in its TRO Remand Order, Rules 51.319(e)(2)(ii) and 51.319(e)(2)(iii) ("Affected Unbundled DS1 and DS3 High-Capacity Loops").

As established by the TRO Remand Order, the transition period for Affected DS1 and DS3 UDT is 12 months. This 12-month transition period will begin on March 11, 2005 and end on March 11, 2006. During this 12-month transition period, your Company will be responsible for the transition of Affected DS1 and DS3 UDT facilities to an alternative service arrangement. To the extent that there are CLEC embedded base Affected DS1 or DS3 UDT facilities in place at the conclusion of the 12-month transition period, SBC will convert them to a Special Access month-to-month service under the applicable access tariffs.

**Transition Pricing for the Embedded Base.**

The TRO Remand Order authorizes SBC to modify rates for Affected DS1 and DS3 UDT to equal the higher of (1) the rate your company paid for such UDT facilities as of June 15, 2004 *plus 15%* or (2) the rate the state commission has established or establishes, if any, between June 16, 2004 and March 11, 2005 for such UDT facilities loops, *plus 15%*.



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CLECALL05-020

**DARK FIBER LOOPS ATTACHMENT: Implementation Plan for Dark Fiber High-Capacity Loops.**

**Transition Period for the Embedded Base.**

As of the effective date of the TRO Remand Order, i.e., March 11, 2005, SBC is no longer obligated to provide unbundled access to Dark Fiber High-Capacity Loops. As defined in the TRO Remand Order, the transition period for unbundled Dark Fiber High-Capacity Loops is 18 months. This 18-month transition period will begin on March 11, 2005 and end on September 11, 2006. During this 18-month transition period, your Company will be responsible for the removal of services you are providing over these unbundled Dark Fiber High-Capacity Loops and for returning the Loops to SBC. To the extent that there are CLEC embedded base unbundled Dark Fiber High-Capacity Loops in place at the conclusion of the 18-month transition period, SBC will disconnect such facilities.

**Transition Pricing for the Embedded Base.**

The TRO Remand Order authorizes rates for embedded base unbundled Dark Fiber High-Capacity Loops to be modified to a rate equal to the higher of (1) the rate your company paid for such Dark Fiber High-Capacity Loops as of June 15, 2004 *plus 15%* or (2) the rate the state commission has established or establishes, if any, between June 16, 2004 and March 11, 2005 for such Loops, *plus 15%*.



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CLECALL05-020

**DARK FIBER TRANSPORT ATTACHMENT: Implementation Plan for Dark Fiber Transport.**

**Transition Period for the Embedded Base.**

As of the effective date of the TRO Remand Order, i.e., March 11, 2005, SBC is no longer obligated to provide unbundled access to Dark Fiber UDT on routes between Wire Centers meeting the criteria set forth by the FCC in its TRO Remand Order, Rule 51.319(e)(2)(iv) ("Affected Dark Fiber UDT").

As established by the TRO Remand Order, the transition period for Affected Dark Fiber UDT is 18 months. This 18-month transition period will begin on March 11, 2005 and end on September 11, 2006. During this 18-month transition period, your Company will be responsible for removing services you are providing over the Affected Dark Fiber UDT and for returning these facilities to SBC. To the extent that there are CLEC embedded base Affected Dark Fiber UDT facilities in place at the conclusion of the 18-month transition period, SBC will disconnect such facilities.

**Pricing for the Embedded Base.**

The TRO Remand Order authorizes rates for Affected Dark Fiber UDT to be modified to a rate equal to the higher of (1) the rate your company paid for such facilities as of June 15, 2004 *plus 15%* or (2) the rate the state commission has established or establishes, if any, between June 16, 2004 and March 11, 2005 for such facilities, *plus 15%*.



**POST-TRO REMAND (Loop-Transport Rate Increase and Embedded Base Transition )  
AMENDMENT TO  
INTERCONNECTION AGREEMENT  
BETWEEN  
SBC ILEC(s)  
AND  
\_\_\_\_\_ (“CLEC”)**

This is a Post-TRO Remand (Loop-Transport Rate Increase and Embedded Base Transition) Amendment (the “Amendment”) to the Interconnection Agreement by and between one or more of the SBC Communications Inc. owned ILECs: Illinois Bell Telephone Company d/b/a SBC Illinois, Indiana Bell Telephone Company Incorporated d/b/a SBC Indiana, Michigan Bell Telephone Company d/b/a SBC Michigan, Nevada Bell Telephone Company d/b/a SBC Nevada, The Ohio Bell Telephone Company d/b/a SBC Ohio, Pacific Bell Telephone Company d/b/a SBC California, The Southern New England Telephone Company d/b/a SBC Connecticut, Southwestern Bell Telephone, L.P. d/b/a SBC Arkansas, SBC Kansas, SBC Missouri, SBC Oklahoma and SBC Texas, and Wisconsin Bell, Inc. d/b/a SBC Wisconsin, (“SBC”) and CLEC (collectively referred to as “the Parties”) (“Agreement”) previously entered into by and between the Parties pursuant to Sections 251 and 252 of the Telecommunications Act of 1996 (the “Act”).

WHEREAS, the FCC issued its Order on Remand, including related unbundling rules,<sup>1</sup> on February 4, 2005 (“TRO Remand Order”), holding that an incumbent LEC is not required to provide access to certain high-capacity loop and certain dedicated transport on an unbundled basis to requesting telecommunications carriers (CLECs);

NOW, THEREFORE, the Parties wish to amend the Agreement, pursuant to Section 252(a)(1) of the Act and the terms of their Agreement, to be consistent with at least the high capacity loop and dedicated transport findings by the FCC in its TRO Remand Order, and in consideration of the foregoing, and the promises and mutual agreements set forth herein, the Parties agree to amend the Agreement as follows:

1. Notwithstanding anything in the Agreement, pursuant to Rule 51.319(a) and Rule 51.319(e) as set forth in the TRO Remand Order, effective March 11, 2005, CLEC is not permitted to obtain the following new unbundled high-capacity loop and dedicated transport elements, either alone or in combination:

Dark Fiber Loops;

DS1/DS3 Loops in excess of the caps or to any building served by a wire center described in Rule 51.319(a)(4) or 51.319(a)(5), as applicable;

DS1/DS3 Transport in excess of the caps or between any pair of wire centers as described in Rule 51.319(e)(2)(ii) or 51.319(e)(2)(iii), as applicable; or

Dark Fiber Transport, between any pair of wire centers as described in Rule 51.319(e)(2)(iv).

The above-listed element(s) are referred to herein as the “Affected Element(s).”

Accordingly, pursuant to Rules 51.319(a) and (e), although SBC shall continue to provide CLEC’s embedded base of the Affected Element(s) (i.e., only Affected Elements ordered by CLEC before March 11, 2005), if and as provided by the Agreement, the price for the embedded base Affected Element(s) shall be the higher of (A) the rate CLEC paid for the Affected Element(s) as of June 15, 2004 *plus* 15% or (B) the rate the state commission has established or establishes, if any, between June 16, 2004 and March 11,

<sup>1</sup> Order on Remand, *Unbundled Access to Network Elements; Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, WC Docket No. 04-313; CC Docket No. 01-338, ¶ 5 (FCC released Feb. 4, 2005).

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2005 for the Affected Element(s), *plus 15%*. CLEC shall be fully liable to SBC to pay such pricing under the Agreement, including applicable terms and conditions setting forth penalties for failure to comply with payment terms, notwithstanding anything to the contrary in the Agreement.

2. CLEC will complete the transition of embedded base Affected Elements to an alternative arrangement by the end of the transition period defined in the TRO Remand Order (12 or 18 months from the TRO Remand Order's effective date, as applicable). For Dark Fiber Affected Elements, CLEC will remove all CLEC services from such Dark Fiber Affected Elements and return the facilities to SBC by the end of the transition period defined in the TRO Remand Order for such Dark Fiber Affected Elements.
3. Paragraphs 1 and 2, above, apply and are operative regardless of whether CLEC is requesting the Affected Element(s) under the Agreement or under a state tariff, if applicable, and regardless of whether the state tariff is referenced in the Agreement or not.
4. In entering into this Amendment, neither Party is waiving, and each Party hereby expressly reserves, any of the rights, remedies or arguments it may have at law or under the intervening law or regulatory change provisions in the underlying Agreement (including intervening law rights asserted by either Party via written notice predating this Amendment) with respect to any orders, decisions, legislation or proceedings and any remands thereof, including, without limitation, the following actions, which the Parties have not yet fully incorporated into this Agreement or which may be the subject of further review: *Verizon v. FCC, et. al*, 535 U.S. 467 (2002); *USTA, et. al v. FCC*, 290 F.3d 415 (D.C. Cir. 2002) ("*USTA I*") and following remand and appeal, *USTA v. FCC*, 359 F.3d 554 (D.C. Cir. 2004) ("*USTA II*"); the FCC's 2003 Triennial Review Order and 2005 Triennial Review Remand Order; and the FCC's Order on Remand and Report and Order in CC Dockets No. 96-98 and 99-68, 16 FCC Rcd 9151 (2001), (rel. April 27, 2001), which was remanded in *WorldCom, Inc. v. FCC*, 288 F.3d 429 (D.C. Cir. 2002).
5. In all states other than Ohio, the Parties acknowledge and agree that this Amendment shall be filed with, and is subject to approval by the applicable state commission and shall become effective ten (10) days following the date upon which such state commission approves this amendment under Section 252(e) of the Act or, absent such state commission approval, the date this amendment is deemed approved by operation of law. In the state of Ohio only, the Parties acknowledge and agree that this Amendment shall be filed with, and is subject to approval by the Public Utilities Commission of Ohio ("PUCO"). Based upon PUCO practice, this Amendment shall be effective upon filing and will be deemed approved by operation of law on the 31<sup>st</sup> day after filing.

IN WITNESS WHEREOF, this Amendment to the Agreement was exchanged in triplicate on this \_\_\_\_\_ day of \_\_\_\_\_, 2005, by the Parties, signing by and through their duly authorized representatives

CLEC \_\_\_\_\_

SBC Operations, Inc., authorized agent for the  
following SBC ILECs

\_\_\_\_\_

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_  
(Print or Type)

Name: \_\_\_\_\_  
(Print or Type)

Title: \_\_\_\_\_  
(Print or Type)

Title: *For/* Senior Vice President -  
Industry Markets and Diversified Businesses

Date: \_\_\_\_\_

Date: \_\_\_\_\_

FACILITIES-BASED OCN # \_\_\_\_\_

ACNA \_\_\_\_\_